IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22480 of 2004

Between:

1 B.Surender Goud S/o.BRaja Goud
R/o.Chandur of Varui R.M., Nizamabad Dist.
2 D.Sudershan S/o.Poshetty
Binola of Navipeta R.M., Nizamabad Dist,.

... PETITIONER(S)

AND

1 The Govt of A.P., its Secretary (Home Guards)
Secretariat, Hyderabad.
2 The Dy. Inspector General of Police (Home Guards)
Hyderabad.
3 The Superintendent of Police
Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or proceedings particularly one in the nature of Writ of Mandamus by declaring the impugned discharge orders No.92/HGs-Org/NZB/02 dt 18-09-2002 as bad, ultravires and un-constitutional and against the principles of natural justice.

Counsel for the Petitioner: MR.SERLA PANDARI

Counsel for the Respondents: GP FOR HOME

The Court made the following :

ORAL ORDER:

This writ petition is filed challenging the orders No.92/HG//NZB/02, dated 18.9.2002 passed by the 3rd respondent.

Heard the learned counsel for both the parties and perused the material on record.

The learned counsel for the petitioners has contended that some of the junior employees have been continuing and the respondents have not followed the principle “Last come First go” and therefore, the impugned order suffers from incurable legal infirmities.

On the other hand, the learned Government Pleader for Home has contended that since one and a half years, the writ petitioners have been absconding from duty and therefore, their names have been deleted. In the appointment order, it is clearly mentioned that their services are liable to be terminated at any point of time and accordingly, they have been terminated and there are no grounds to interfere with the impugned proceedings.

The 3rd respondent passed the impugned order, dated

18.9.2002 indicating the petitioners' unauthorized absence from their duties without permission or intimation to the officers concerned from 1.1.2001 onwards in case of the 1st petitioner and from 1.5.2002 onwards in case of the 2nd petitioner. Therefore, the 3rd respondent-Superintendent of Police rightly removed their names for their unauthorized absence from duty without prior permission.

The petitioners' counsel has contended that their cases may be considered in the existing vacancies, but in the sworn affidavits filed by the 2nd respondent, it is clearly stated that as on today, there are no vacancies of Home Guards. It is clearly mentioned that the services of the petitioners are only voluntary services and the petitioners will be paid due allowance at the rate fixed by the Government and they cannot have any right whatsoever. Even though the impugned proceedings were passed on 18.9.2002, the petitioners did not approach this Court after a lapse of more than two years. Therefore, on this ground, the petitioners cannot have any enforceable right to challenge the impugned order and there is no merit in this writ petition.

The writ petition is accordingly dismissed. However, this order will not preclude the respondents from considering the petitioners' case in case any future vacancies arise. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

9th February, 2005.

bcj

To

1 The Secretary, Govt of A.P.,(Home Guadrs)
Secretariat, Hyderabad.
2 The Dy. Inspector General of Police (Home Guards)
Hyderabad.
3 The Superintendent of Police
Nizamabad.

4 Two C.Cs. to the Government Pleader for Home, High Court Buildings, Hyderabad (OUT)

5 Two C.D. copies